



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Application of

Hideki KURATA

U.S. Patent Application No. 10/565,599

Filed: January 24, 2006

For: DRAIN CLEANER

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: Confirmation No. 2414
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: Group Art Unit: 3723
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: Examiner: Shay Lynn Karls

PRE-APPEAL BRIEF REQUEST FOR REVIEW

May 29, 2008

Mail Stop AF

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

This paper is submitted in reply to the Final Office Action mailed *March 14, 2008*.

Appellant respectfully requests review of the final rejections of claims **1 and 3-6** as manifested in the Office Action. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal in compliance with *37 CFR 41.31*.

The review is requested for the reasons stated on the attached sheets.

A credit card authorization form in the amount of \$255.00 is attached herewith.

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REMARKS

Claims 1 and 3 stand rejected under 35 U.S.C. §102(b) as being anticipated by Mason (US 3,918,166). In addition, claims 4-6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Mason in view of one or more of King (US 3,662,969) and Koizumi et al. (US 5,406,715). These rejections are respectfully traversed.

A rejection based on 35 U.S.C. §102 requires every element of the claim to be included in the reference, either directly or inherently. This rejection is traversed based upon the failure of Mason to disclose every element of at least independent claims 1 and 4.

At the outset, Appellant respectfully submits that the Mason's *head circumference measuring device* is totally unrelated to the Appellant's recited *drain cleaner* in both function and structure. Claim 1 recites, *inter alia*, a drain cleaner provided with an equal width strip body having two edges disposed along a long direction of the strip body, "wherein the strip body is provided with flexible members disposed on both edges of the strip body, the flexible members being configured to make close contact with an abutting surface along the long direction of the strip body." (Emphasis added). Nowhere does Mason disclose at least these features of claim 1.

The Examiner asserts that Mason's single elastic belt 14 corresponds to flexible members disposed on both edges of the strip body recited by the Appellant. Appellant respectfully disagrees.

First, Mason's elastic belt 14 is not disposed on an edge of the head circumference measuring device. Appellant respectfully submits that the term "edge" as known to those of ordinary skill in mechanical arts, has several applicable definitions, including "the cutting side of a blade," "the line where an object or area begins or ends," and "the narrow part adjacent to a border." (See Meridian Webster Online Dictionary at <http://www.merriam-webster.com/dictionary/edge>). Appellant further submits that none of these, or other definitions of the term "edge," apply to Mason's elastic belt 14. Indeed, not only is elastic belt 14 not a cutting edge or a narrow part adjacent to a border, elastic belt 14 can only be described as a side of Mason's device, in fact, the widest side.

Furthermore, elastic edge 14 is disposed only one side of Mason's measuring device and is not disposed on both sides of a strip body, as recited in claim 1.

Should the Patent and Trademark Office posit Mason's grooved ribs 20 are edges that corresponds to Appellant's flexible members, Appellants would argue that unlike the recited flexible members, ribs 20 fail to make close contact with an abutting surface.

Accordingly, because Mason does not disclose, teach or suggest each and every feature recited in claim 1, the rejection of claim 1 under 35 U.S.C. §102(b) is improper. Appellant respectfully submits, therefore, that independent claim 1 is patentable over Mason.

Claim 3 depend from independent claim 1 and is likewise patentable over Mason at least for its dependence on claim 1, an allowable base claim, as well as for additional features it recites. Withdrawal of the 102(b) rejection over Mason is respectfully requested.

In regards to the rejection of claims 4-6 under 35 U.S.C. §103(a) as being unpatentable over Mason in view of one or more of King and Koizumi, Appellant respectfully submits that neither King nor Koizumi remedies the deficiencies of Mason as presented above. Specifically, neither King nor Koizumi discloses, teaches, or suggests "flexible members disposed on both edges of the strip body, the flexible members having a high ability to closely contact a floor along the longitudinal direction of the strip body." (Emphasis added).

Accordingly, because any allowable combination of Mason, King, and Koizumi, fails to disclose, teach or motivate all recited features of the claims, the 103(a) rejection of independent claim 4 and claims 5 and 6 that depend therefrom is improper. Accordingly, reversal of this rejection is respectfully requested.

In view of the foregoing, Appellant respectfully submit that the application is in condition for allowance and favorable reconsideration and prompt allowance of claims 1 and 3-6 are earnestly solicited.

Respectfully submitted,



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